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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,378

09/08/2006

Philippe Garreau

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EXAMINER

DOLE, TIMOTHY J

ART UNIT

PAPER NUMBER

2858

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/568,378	<b>Applicant(s)</b> GARREAU ET AL.	
	<b>Examiner</b> Timothy J. Dole	<b>Art Unit</b> 2858	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/8/06</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because empty box, 60, in fig. 2 should contain a label or symbol describing its function. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claims 3-6 are objected to because of the following informalities: The word "the" is written twice in a row in claim 3, line 5. The claims recite the limitations: "the angular pitch" on

lines 6-7 of claim 4; “the angular pitch” on line 6 of claim 5; and “the angular pitch” on lines 6-7 of claim 6, all of which lack antecedent basis. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2 and 4-11 are rejected under 35 U.S.C. 102(b) as being anticipated by McKivergan (US 6,329,953).

Referring to claim 1, McKivergan discloses a device for determining at least one characteristic of electromagnetic radiation (abstract) emitted from a test object (fig. 6 (2)) said device comprising: a support (fig. 6 (3)) for receiving the object (fig. 6); a network of probes (fig. 6 (1)) distributed along a substantially circular arc (fig. 6), the support being disposed in a plane formed by the network of probes (fig. 6) or in a plane parallel to the plane formed by the network of probes; and means (fig. 6 (5) and (6)) for pivoting at least one of the network of probes and the support (column 6, lines 5-8) in the plane formed by the network of probes (fig. 6) or in the plane parallel to the plane formed by the network of probes about a point located in that plane to vary an angle formed between a given one of the network of probes and the support (column 6, lines 5-8) and thereby allow measurements to be taken at a plurality of angular positions of the network of probes and relative to the test object (column 5, line 47 – column 6, line 8).

Referring to claim 2, McKivergan discloses the device as claimed wherein said means for pivoting at least one of the network of probes and the support includes means for moving the support in relation to the ground (column 6, lines 5-8).

Referring to claims 4-6, McKivergan discloses the device as claimed wherein said means for pivoting at least one of the network of probes and the support allows the angle formed between the given one of the network of probes and the support to vary: by less than an angular pitch of the network of probes; by a fraction of the angular pitch of the network of probes; or by at least the angular pitch of the network of probes (column 7, lines 9-13).

Referring to claim 7, McKivergan discloses the device as claimed, further comprising: means (fig. 6 (5) and (6)) for driving one of the support (fig. 6 (3)) and the network of probes to rotate about an axis (fig. 6 axis formed by the diameter of the probe array, from the top of the array to the bottom of the array) formed of a diameter of the substantially circular arc (fig. 6).

Referring to claim 8, McKivergan discloses the device as claimed, further comprising: means (fig. 6 (5) and (6)) for displacing the test object relative to the network of probes in a direction perpendicular to the plane formed by the network of probes (fig. 6). It should be noted that the test object of McKivergan, as shown in figure 6, is being rotated while attached to a phantom head. Therefore, immediately after the test object is in the plane of the network of probes, it will move out of the plane in a direction perpendicular to the plane.

Referring to claims 9-11, McKivergan discloses the device as claimed, wherein a method comprises: positioning the test object on the support (column 5, lines 40-46); and carrying out a plurality of measurements at different positions of the test object relative to that of the network of probes by pivoting, rotating or perpendicularly moving one of the network of probes and the support relative to the other along the plane formed by the network of probes or along the plane parallel to the plane formed by the network of probes to acquire data at the plurality of angular positions of the network of probes relative to the test object (column 5, line 47 – column 6, line 8).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKivergan (shown above).

Referring to claim 3, McKivergan discloses the device as claimed except wherein said means for pivoting at least one of the network of probes and the support includes means moving the network of probes in relation to the ground.

MPEP 2144.04 (V) (A) discloses that making a device movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or

unexpected results. Since McKivergan discloses moving the test object with respect to the network of probes, no new or unexpected results would be provided by moving the network of probes around a stationary test object. Therefore the claims are not patentably distinguishable over McKivergan.

It would have been obvious to one skilled in the art at the time of the invention to incorporate the movable probe network into the device of McKivergan for the purpose of providing data at a plurality of different measurement positions (column 6, lines 5-8).

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to show the state of the art with respect to radiation testing.

USPN 7,035,594 to Wallace et al.: This patent shows an apparatus for testing a device enclosed by a sphere of antennas.

USPN 6,850,851 to Fourestie et al.: This patent shows an apparatus for testing a device using a movable sensor.

USPN 6,556,023 to Okazaki: This patent shows an apparatus for measuring electromagnetic radiation wherein the test object and antenna are moveable.

USPN 4,968,983 to Maeda: This patent shows an apparatus for determining the radiation field for a device moveable in multiple directions.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Dole whose telephone number is (571) 272-2229.

The examiner can normally be reached on Mon. thru Fri. from 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Timothy J. Dole

